

State of California
BOARD OF EQUALIZATION
SALES AND USE TAX REGULATIONS

Regulation 1620.2. BEVERAGES SOLD OR SERVED BY CARRIERS.

Reference: Sections 6006, 6009, 6051, 6091, 6201, 6352, 7053, Revenue and Taxation Code.

(a) DEFINITIONS.

(1) CARRIER. "Carrier" means any person or firm who engages in the business of transporting by vehicle, train, vessel, or aircraft persons or property for hire or compensation. The term includes common and contract carriers engaged in intrastate, interstate or foreign commerce. It does not include, however, the National Railroad Passenger Corporation (Amtrak).

(2) TRANS-STATE TRIP. "Trans-state trip" means the act of crossing California territory or airspace during a continuous journey between points outside this state without stopping or landing in this state.

(3) TAXABLE BEVERAGES. "Taxable Beverages" means all beverages sold or served by carriers except beverages described as food products in Section 6359 of the Revenue and Taxation Code and Regulation 1602.

(b) APPLICATION OF TAX. Tax applies to the sale or use of taxable beverages in this state by carriers, except when the sale or use occurs during a trans-state trip. This includes taxable beverages sold or served on a complimentary no charge basis by carriers to passengers or crew.

(c) ACQUISITION OF TAXABLE BEVERAGES. Taxable beverages which will be sold to passengers or crew may be purchased for resale. Beverages which are served only on a complimentary no charge basis may not be purchased for resale. (See Regulation 1668 for provisions regarding the effect and form of resale certificates.)

(d) REPORTING METHODS.

(1) GENERAL. In reporting taxable measure, a carrier may utilize the California passenger mile method described in (d) (2) or any other reporting method which accurately reports the tax due on taxable beverages sold or used in this state. The carrier must be prepared to demonstrate by records which can be verified by audit that the method used accurately reflects the taxable measure. Carriers contemplating use of other reporting methods are encouraged to submit an outline of the proposed method to the nearest board office for review and formal approval prior to use of the method.

(2) CALIFORNIA PASSENGER MILES METHOD. Under this method, a carrier may report its tax liability from the sale and consumption of taxable beverages in this state by allocating a portion of its total gross receipts and its total cost of taxable beverages served on a complimentary basis to California based on the ratio that its passenger miles in California bears to its total system-wide passenger miles.

The ratio of passenger miles in California to total passenger miles may be determined by tests. The test shall be representative of the carriers's operations. Further, new tests should be made when there is any significant change in routes, schedules, or other operating conditions. All detail and test data shall be retained for examination by Board representatives.

The California mileage used in computing the ratio should exclude trans-state trip mileage. Air carriers shall make no adjustment for ascent and descent miles unless total system-wide mileage is adjusted for total ascent and descent miles.

(A) Determination of Taxable Receipts Under the Passenger Miles Method. In determining taxable receipts under this method, a carrier must apply the ratio to its total gross receipts from the sale of taxable beverages system-wide. As used in this subsection, "total gross receipts" means the total amount of the sales price of all taxable beverages including sales tax reimbursement. Since the taxable receipts determined under this method represents taxable receipts before adjustment for sales tax included therein, taxable receipts may be adjusted to compensate for California sales tax included in total gross receipts.

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(B) Determination of Cost of Taxable Beverages Consumed Under the Passenger Miles Method. In determining the cost of taxable beverages consumed in this state, a carrier must apply the ratio to its total cost of beverages served on a complimentary basis system-wide.

Separate calculations must be made for taxable beverages of a kind which are resold and those of a kind not resold. For example, soft drinks normally are not resold, while beer, wine and liquor normally are resold.

(1) Beverages of a Kind Not Generally Resold. The cost of taxable beverages consumed in this state may be determined by applying the passenger miles method to the cost of taxable beverages served on a complimentary basis system-wide. A credit may be taken for taxable beverages acquired on which California sales tax reimbursement was paid to the vendor. However, the credit may not exceed the total cost of taxable beverages consumed in California as determined by a the passenger miles method.

(2) Beverages of a Kind Generally Resold. The cost of taxable beverages of a kind normally resold but which are served on a complimentary basis may be determined on the passenger miles method. If the carrier has paid California sales tax reimbursement at the time of acquisition, a credit may be taken for taxable beverages so acquired.

History: Adopted March 6, 1985, effective May 31, 1985.

Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.